

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	
LITIGATION)	MDL No. 1456
_____)	Master File No. 01-12257-PBS
)	Subcategory No. 06-11337-PBS
THIS DOCUMENT RELATES TO:)	Civil Action No. 08-cv-10852
<i>United States of America ex rel. Ven-a-Care of</i>)	
<i>The Florida Keys, Inc., v. Actavis Mid Atlantic,</i>)	Judge Patti Saris
<i>LLC, et al.</i>)	
_____)	

**MOTION BY THE UNITED STATES TO QUASH DEPOSITION
SUBPOENA TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES**

Pursuant to Rules 26 (c) and 45(c)(3) of the Federal Rules of Civil Procedure, the United States respectfully requests that the Court quash a subpoena by defendants directed to the Centers for Medicare and Medicaid Services (CMS). On April 14, 2011, counsel for Sandoz, on behalf all defendants, posted a Notice of Subpoena to CMS with an appended Rule 45 deposition subpoena and list of subjects as to which testimony by agency officials was demanded. The Government has conferred with lead counsel for defendants in an effort to resolve this dispute but has been unable to reach agreement.

As set forth in the accompanying memorandum, the grounds for this motion are that the subpoena is untimely because fact discovery in this matter has closed. Moreover, service of the subpoena was contrary to Department of Health and Human Services' regulations, and the subject matter specifications appended to the subpoena are unduly burdensome, overly broad, and seek privileged information.

Respectfully Submitted,

For the United States of America,

CARMIN ORTIZ
UNITED STATES ATTORNEY

TONY WEST
ASSISTANT ATTORNEY GENERAL

George B. Henderson, II
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
Suite 9200, 1 Courthouse Way
Boston, MA 02210
Phone: (617) 748-3272
Fax: (617) 748-3971

/s/ Justin Draycott
Joyce R. Branda
Daniel R. Anderson
Laurie Oberembt
Justin Draycott
Civil Division
Commercial Litigation Branch
P. O. Box 261
Ben Franklin Station
Washington, D.C. 20044
Phone: (202) 305-9300

May 5, 2011